



December 4, 2015

Katrina Knutson, ACIP
Jeff Arango, ACIP, Senior Associate, BERK Consulting
Department of Community Development
614 Division Street, MS - 38
Port Orchard, Washington 98366

SUBJECT: Response To Staff Report For FSN, Inc. (Curtis-Avery) Site Specific Comprehensive Plan Amendment – Urban Reserve to Urban Low - Permit No: 15 00641. Reference Also Tax Parcels 4624-003-002-0109, 4624-003-003-0009, 4624-003-004-0008, 4624-003-005-0007, 4624-003-006-0006, 4624-003-007-0005, 4624-003-008-0004, 4624-003-009-0003, 4624-003-010-0000, 4624-003-011-0009, 4624-003-0112-0008, 4624-003-013-0007, 4624-003-014-0006, 4624-003-015-0005 & 4624-003-016-0004

Dear Katrina, Jeff,

This letter is a response to the Staff Report issued on November 9, 2015 analyzing the FSN, Inc. Site Specific Comprehensive Plan Amendment / Rezone proposal to reclassify and rezone their property on Kent Avenue West in Bremerton, Washington. This parcel is further referenced by the above Kitsap County Assessor / Tax Numbers. **Note for the record, the maps included with the staff report are not correct. The applicant owns fifteen (15) lots, not the 12 outlined on the Staff's map exhibits. The legal description included in the application material may have been somewhat confusing, but all of the above referenced Tax account numbers and parcels are/were represented in the applicant's graphics and in the attached legal description.**

It is noted that the staff report contains no specific recommendation. There are none-the-less implied recommendations or conclusions. Many of the comments made by staff seem to ignore the applicant's responses to the same questions. That begs the question as to how the two documents, i.e. the applicant's responses verses the staff's analysis is to be presented to the Planning Commission and ultimately to the Board of County Commissioners? Because that is unclear and because the staff analysis contains unsupported opinion and some inaccuracies it is necessary to object to much of what is in the staff report – particularly in the response to evaluation criteria. Also the format of criteria questions addressed by staff is problematic and therefore confusing as there are criteria questions not posed in the application material and there is a different order of criteria assessments not found in the Supplemental Site Specific Comprehensive Plan Criteria.

P. O. BOX 6

PORT ORCHARD, WASHINGTON 98366

TEL: [360] 621-7237 or [253] 858-3644 . FAX: [253] 858-3654

e-mail: wpconsilts@telebyte.net

Herein are the applicant's objections to the staff analysis and comments as contained in the staff report:

Background –

The staff report mentions that the site is located in a "Moderate Geological Hazard Area" mapping feature. What is not discussed is the relevance of this feature to the proposed Site Specific Comprehensive Plan Amendment/Rezone proposal. In the SEPA Checklist the applicant submitted, the questions about site development limiting features were answered in the negative. What is not found in the Background section is mention of the fact that the subject site has been platted into 40 ft. by 100 ft. lots with a middle alley between the two banks of eight lots. Nor is there mention that the subject site is part of a large platted area called the "Replat of Port Orchard City."

Staff's mention of this environmental features is without context and the omission of the location of the subject property within a large platted area fails to accurately portray the nature of the property.

PUBLIC COMMENTS:

It is true as Staff reports that the City of Bremerton indicated lack of support for the proposed plan amendment. But it is worthy of mention that sewer service in the area comes not from the City of Bremerton, rather it comes from Kitsap County's system. In fact all of the Replat of Port Orchard City that Kitsap County has Zoned Urban Medium or Urban Low has sewer service from Kitsap County. Bremerton's UGA is an issue, but clearly not all of the "urban services" that support this area are from the City.

Prior to application submittal the applicant contacted Kitsap County Public Works to determine whether or not there were sewer system capacity issues that might preclude the extension of sewer to the subject property. The answer to that question was/is no as there is excess capacity in the County's system in this location. Also, because the applicant owns the lots immediately adjacent on the south, the applicant can extend the sewer line to serve that property and also serve the site that is subject to the Comprehensive Plan Amendment / Rezone request.

EVALUATION –

General Criteria (KCC 21.08.070.A)

These General Criteria questions were not part of the application material the applicant was required to address or at least not as worded and presented in the staff report. See also the comments recorded on Page 5 of this response regarding the Reclassification Request Criteria (KCC 21.08.070.D).

The objections addressed herein and in subsequent discussions regarding criteria compliance, reflect some of the answers to these questions as posed in the application material.

A.1. How circumstances related to proposed amendment and/or the area in which the property affected by the proposed amendment is located have changed since the adoption of the Comprehensive Plan or applicable development regulations -

Staff says that conditions have changed, therefore this criteria is satisfied. Also, Staff reports that Alternative 2 & 3 in the DSEIS include the applicant's property in Bremerton's UGA.

A.2. How the assumptions upon which the Comprehensive Plan is based are no longer valid, or there is new information available which was not considered during the adoption of, or during the last annual amendment to, the Comprehensive Plan or development regulations -

Staff says "the assumptions upon which the Comprehensive Plan is based are still generally valid." And that "there is sufficient projected population capacity to support the proposed Amendment / Rezone."

Staff's assessment and conclusions indicates there is compliance with this criteria.

A.3 – How the requested re-designation is in the public interest and the proposal is consistent with the Kitsap County Comprehensive Plan -

Staff says that "the County aims to focus a greater share of growth into urban areas." If that analysis process allows, this site will be considered for inclusion in Bremerton's UGA.

Since the Staff has not defined what constitutes "public interest" but indicates by Staff comments (without making a clear statement) that there is general compliance with the Comprehensive Plan.

Reclassification Request Criteria (KCC 21.08.070.D)

D.1.a – The proposed amendment meets concurrency requirements for transportation, sewer and water, and will not result in significant adverse impacts on adopted level of service standards for other public facilities and services, such as police, fire and emergency medical services, park services and general governmental services -

Staff essentially **concurs with the applicant** that there are no significant adverse impacts on adopted levels of service standards or other public facilities and level of service standards for other public facilities and services. See applicant's response to **Question 1.a** found on Page 1 of the applicants "Supplemental Comprehensive Plan Amendment Criteria" discussion. The Staff comments are somewhat incomplete in that there is no mention of the fact the property has already been subdivided into small lots.

Staff recognizes the applicant's analysis of the "concurrency" requirements for the proposed Amendment / Rezone property, but says "sewer capital plans were not prepared for this site."

D.1.b – the proposed amendment is consistent with the balance of the goals, policies and objectives of the current Kitsap County Comprehensive Plan and reflects the local circumstances of the County –

The Staff assessment of this issue indicates consistency with the balance of the goals, policies and objectives of the current Comprehensive Plan.

Regarding the Staff comments that follow Exhibit 5 – County Vision for Rural and Urban Areas, the Staff says that “...an expanded UGA would support focused development in this area.”

The Staff’s analysis and conclusions are in general agreement with the applicant that there is compliance with this criteria

Kitsap County Comprehensive Plan Goals and Policies

Section 2.2 Urban Growth Areas of the Land Use Element of the 2012 Adopted plan –

Goal 5: Provide public services and capital facilities necessary to support planned urban growth at adopted levels of service for the 2025 planning horizon.

Policy LU-23 – Prioritize the UGAs for Kitsap County expenditures for public services and facilities as a tool to encourage development, to make urban areas desirable places to live, and to use existing infrastructure more efficiently and cost effectively.

Policy LU -24 - Prohibit extension of expansion of urban services and facilities in rural areas except in limited circumstances necessary to protect basic public health, safety, and the environment, and do not allow extensions or expansion in rural areas to create or encourage urban development outside the designated UGA.

Staff says that while urban services and facilities do not currently serve the site they are located in close proximity. Also indicated that is the fact the 2006 Comprehensive Plan sewer service in this area was addressed “broadly,” but no capital sewer plans were prepared for the site.

Staff Analysis and Conclusions are not conclusive, but indicate as discussed in Criteria D.1.a the close proximity of sewer represents compliance with this criteria.

Goal 6: Encourage and reinforce development patterns within UGAs that are distinct from those in rural areas.

Goal 11: Encourage new residential growth to locate within designated UGAs at higher densities than in rural areas.

Staff says the subject property is not in a UGA. The Staff goes on to say “Under the present plan and zoning, the site would remain rural and would be subject to URS density limitations.” And that: “the properties’ current vacant use and largely undeveloped land is not already characterized by urban growth.” There are two things missing from the staff’s characterization

of this analysis: a.) URS Zoning is not one of Kitsap County's Rural Zones. While it has density limitations like rural zoned property it is in fact not a Rural Zone like Rural Residential, Rural Protection or even Rural Wooded. Neither is it an Urban Zone. The reality is.....it is best classified as an "urban holding zone." It is the first place the County has elected to look to when a UGA expansion might take place; b.) the other missing part of this analysis is the fact that the subject property has been platted into 16 small lots, 15 of which are owned by the applicant. Thus the density issue is not speculative, the density equates to about 10 dwelling units per acre which is slightly higher than the maximum allowed in the Urban Low Zone.

So if the analysis of the site is candid, the conclusion is that the platted density is definitely not rural and in fact it exceeds the density allowance in Urban Reserve. The only issue that seems in doubt is whether or not the subject property could be fully developed at its platted density without sewer. The answer is yes, with individual septic systems. Perhaps that seems unlikely, but it is possible and the explanation for how is not important for this discussion. What the applicant believes is that solving the sewer disposal problem for these individual lots is best addressed with sanitary sewer service, which is available close by at a more reasonable cost.

With the noted supplemental analysis, the Staff's assessment leads to the conclusion that there is compliance with these Comprehensive Plan Goals.

Goal 8: Facilitate and encourage incorporation or annexation with associated cities of urban areas over the 20-year planning period and ensure compatibility of development with future planned uses within the unincorporated UGA consistent with the UGAMA process call for in the CCPs.

The Staff comments that follow this goal omit two important issues: 1.) Kitsap County as well as the City of Bremerton have not made the County-wide Planning Policies a part of their respective Comprehensive Plans and 2.) the County and the City have never negotiated an Urban Growth Area Management Agreement (UGAMA). Therefore compliance with this goal is not possible and it should be removed from consideration of the proposed FSN, Inc. (Curtis – Avery) URS to UL Comprehensive Plan Amendment / Rezone.

As a general comment, the platted configuration of the property, even though Zoned URS is compatible with the development pattern of the applicant's property adjacent on the south and the platted and developed property to the east that are both a part of Bremerton's UGA. **Staff assessment and conclusions about this goal are not valid.**

D.1.c – The subject parcel(s) is suitable for the requested land use designation based upon, but not limited to, access, provision of utilities, consistency with existing and planned uses, environmental constraints and compatibility with the neighborhood –

See above comments regarding Goal 8.

Staff says the proposed amendment would be compatible with the development pattern to the east "...currently Zoned UM and UL." But Staff says, "With its existing use as undeveloped land, it is more compatible with surrounding areas to the west that have rural zoning designations and not with UL designation characteristics.

Clearly the Staff's description of land to the west of the site is not entirely accurate. South and southwest of the site is Urban Low. Directly west the Zoning is URS. Per the discussion comments for Goal 8, URS is not a rural zone. Also to be recognized that even though the subject site is vacant land it is platted property in the same configurations and density as the property south and east of the site. Undeveloped platted land (especially at a density of 10 dwelling units per acre) does not have the same characteristics of undeveloped rural land that is painted some shade of green (not salmon color) in other parts of Central, North and South Kitsap County.

Regarding "growth projections," Staff has already agreed in their response to Criteria A.2 that there is sufficient projected population capacity to support the proposed Amendment / Rezone.

Staff's analysis and conclusions are without merit and not correct.

D.1.d – The proposed amendment does not materially affect the land uses and growth projections which are the basis for comprehensive planning, and reflects local circumstances in the County –

See above comments regarding Goal 8 & 11 and those supplemented by the discussion in D.1.c. Staff indicates while the current Comprehensive Plan (December, 2012) does not include the site in Bremerton's UGA, both Alternatives 2 and 3 do have this site in Bremerton's UGA. Note too, that in the "Proposed Zoning" graphic included with the Staff report that similarly platted property to the west of the subject property is shown as Urban Low, not URS. While this is an appropriate proposal, it goes beyond FSN, Inc.'s request. And the applicant has no objection to a larger rezone effort if so sponsored by Kitsap County.

Staff assessment and conclusions are that in DSEIS alternative proposals 2 & 3 there is compliance with this criteria.

D.1.e – the proposed amendment does not materially affect the adequacy or availability of urban facilities and services to the immediate area or the overall areas of the urban growth area –

Staff in their discussion of Criteria D.1.a that there are no significant adverse impacts on adopted levels of service standards or other public facilities and level of service standards for other public facilities and services. However in their comments regarding this Criteria D.1.e, Staff states, "The County would have to extend and provide sewer services to development in this area." And, "The site has not been specifically planned for sewer service by the County or City; sewer service was addressed broadly in 2006 in the evaluation of UGAs but specific sewer capital plans were not prepared for this site."

Staff response essentially agrees with the discussion presented by the applicant, i.e. there is compliance with this criteria.

D.1.e – The proposed amendment is consistent with the GMA, Kitsap County-wide Planning Policy, state and local laws and other applicable inter-jurisdictional policies or agreements –

Growth Management Act Planning Goals (RCW 36.70A.020)

Please note these goals are those that Kitsap County has to meet when their plan is adopted. These goals have already been satisfied when the County defined Urban Growth Areas in 1998, 2006, and as they were revised in 2012. The subject property lies adjacent to Bremerton's UGA on two sides. Because the applicant's property meets the definition of an urban area, its exclusion seems to have been an arbitrary choice by the County's planners in those eras.

1) Urban Growth. Encourage development in urban areas where adequate public facilities and services exist or can be provided in an efficient manner.

Staff's assessment focuses on the undeveloped character of the site and the fact that sewer service has not been extended to the site. Staff did not discuss the prior platting activity. Also not discussed is the fact that while the subject property is in Bremerton's UGA, it is not the City of Bremerton that has been and will be providing sewer service to this area. Kitsap County is the agency that maintains the roads including Kent Avenue West from which eight of the applicant's lots take access and provides sewer service.

Based on the findings of Staff in their discussion of Criteria D.1.a, service capacity of Kitsap County sewer system in this area indicates "adequate capacity to serve the site." Because public water is available to the site (though not currently connected) and that the connection to sewer is less than 200 feet away, the latter can be provided in an efficient manner. It may be noted too, that the Kitsap / Bremerton Health Department has a policy that property within 200 feet of a sewer main is supposed to connect to the sewer. This policy, although long standing is seldom enforced.

Staff assessment is inconclusive with respect to compliance with this goal, but when all factors are considered, there is goal compliance.

2) Reduce sprawl. Reduce the inappropriate conversion of undeveloped land into sprawling, low density development.

Staff assessment leads to the conclusion that there is compliance with this goal.

Kitsap County-wide Planning Policies –

Please note the applicant's objection to the County-wide Planning Policies (CPPs) being part of analysis criteria as explained on Pages 3 & 4 of the applicant's response to the Supplemental Comprehensive Plan Amendment Criteria. Also to be referenced here is the e-mail transmitted to Katrina Knutson and Dave Greetham on November 17, 2015 providing further discussion of why the CPPs should not be used to evaluate Site Specific Comprehensive Plan Amendment? Rezone proposals. If Staff continues to refer to these policies as set forth in their staff report

for evaluative criteria and they can subsequently defend the use of those policies as discussed in the November 17, 2015 mentioned above, **the applicant reserves the right to address** the Staff's compliance assessment either as contained in the November 9th staff report or as detailed in a response to that November 17th e-mail from W.M. PALMER CONSULTANTS.

Also note that County-wide Planning Policies (CPPs) are only to be employed as comprehensive plan framework criteria to judge that the County and the Cities have coordinated plans. Each of those jurisdictions have separately adopted CPPs, but none so far have tried to include them or portions of them in their respective comprehensive plans. **And that is a good thing** since the **so-called policies are mostly not policies at all**, they are written to be regulations with mandates like shall and must in the verbiage, but not codified as an ordinance. Just in the 2010-2011 amendments there are 118 instances when this has occurred. Many other so-called policy statements are laughable examples of meaningless platitudes.

Note here the Staff returns to the assessment criteria as found in the application criteria.

2.a. Demonstration from the jurisdiction affiliated with the UGA that the proposal has the capability and capacity to provide urban level services to the area.

Staff references the July 16, 2015 letter from the City of Bremerton, which states that the City has "...sufficient land capacity within our city and **assigned** UGAs, to satisfy the target populations for the next 20 years, which are approximately 18,000 people." (Emphasis added) On the surface it might appear that this criteria is not satisfied. However, there are several factors that mitigate in favor of compliance with this criteria:

- 1.) It is not the City of Bremerton who actually serves this area with any other utility than water. Kitsap County provides road maintenance, sewer service and police protection. Supposedly the only "public service" not available to the site is sewer. Since Bremerton does not supply that now and would not provide it regardless of whether their UGA is expanded or not, the real issue is whether the City might choose to annex all or portions of the Replat of Port Orchard City. Recall the earlier discussions about capacity of the County to provide sewer service.....the capacity exists. The City of Bremerton as observed above already supplies water to the area. Therefore "capability" and "capacity" is not an issue.
- 2.) Since the property is already platted at urban densities and because there is access to public water, power / phone and public streets, the applicant could with a little creativity build houses on all of their 15 lots. Even if only 10 of the 15 were developed the actual character of the development would be "urban." Whether 10 or 15 lots supported houses there would be 25 – 40 new people living in Block 3 of the Replat of Port Orchard City. And if the Applicant's Site Specific Comprehensive Plan Amendment / Rezone application were to be denied, the applicant would have to pursue other options. In the final analysis, Bremerton vis-à-vis the County may have stopped short of extending sewer, but the population of this area would increase none-the-less.
- 3.) Bremerton's comments as recorded in their July 15th letter indicate they were "**assigned**" an amount of land capacity for their projected 18,000 people. Not noted is

who made the assignment and whether the assignment was based on a mathematical equation or desires of the people of Bremerton or those within their UGAs. Likely it is the former, because GMA is all about control and not really about true comprehensive planning reflecting the desires of the people to create an environment they actually want to live in both now and in the future. The comment here is directed at the apparent “constraint” the City of Bremerton is under limit their population intake and therefore the land area that might one day comprise their City.

- 4.) As a follow-on to Point 2, if the applicant succeeds in adding 10 to 15 homes on their property without sewer and there is a population growth of 25 – 40 new people (about .002 of a percent of the 18,000 and an even smaller percentage of Bremerton’s existing UGA), where is this population credited?” Remember URS land is not rural (by definition) even though it may be outside a UGA. The answer to this question is.....one way or another it would be credited to the City of Bremerton’s UGA population. And whether it is or not will not matter to the applicant or the people who will one day occupy those 10 - 15 homes.
- 5.) In this instance a judgement that there is not a “technical compliance” with this criteria is nothing more than an academic exercise or better described as a “game” the County and the City have to play that is neither based on what should work in real life nor the end result. This is a good example of why GMA planning is about “control” and not about real Comprehensive Planning that Kitsap County and the Cities could do before 1990 and 1991.

Staff assessment may be technically correct, but a more thorough analysis of the proposed Amendment / Rezone in light of realistic factors pertinent to this property leads to a different conclusion.

2.b. Demonstration that the proposal is consistent with the associated urban growth area jurisdiction’s Comprehensive plan –

Staff asserts that “the City of Bremerton has more residential capacity than its projected 2025 and 2036 population growth.” And, “The City already has sufficient capacity (See attached letter). This statement seems to conflict to what the Staff reported in their assessment of Criteria A.2 wherein they said: “the assumptions upon which the Comprehensive Plan is based are still generally valid.” And that “there is sufficient projected population capacity to support the proposed Amendment / Rezone.”

The question asked in the Criteria is not the question answered by Staff. The Staff’s answer should have been, the existing UGA in this area has property that is Zoned Urban Medium and Urban Low and that the lots in those two zones are almost identical in size to the lots in the applicant’s holdings. Therefore, the answer to this question is yes. If Staff had elaborated they might have gone on to talk about the source of the water system that serves the site or that property on the east side of Kent Avenue West is served by public sewer from Kitsap County and that it is Kitsap County that is responsible for road maintenance (not the City of Bremerton)

in this area as well as police protection. The City already provides fire service, because it has the closest facilities.

Staff assessment and conclusions not applicable because they provided an answer to a question the Criteria did in ask.

3.c - Demonstration that the proposal meets the affiliated jurisdiction's transportation standards –

Staff says this criteria will be addressed cumulatively in Alternatives 2 and 3 in the Draft SEIS. And that results are pending.

While this response does not really answer the question posed by this criteria, when that "cumulative" analysis is made of Alternatives 2 & 3, the conclusion with respect to the larger area, i.e. the Replat of Port Orchard City in which the applicant's property is a part, is that Kitsap County has not maintained the streets to the same standards utilized by the City of Bremerton.

Beyond that notation, when vacant property is eventually developed, assuming it lies within Bremerton's UGA (but is not annexed), the street improvements will have to meet Kitsap County's transportation standards not the City's. Since there is no Urban Growth Area Management Agreement (UGAMA) between the two jurisdictions, further development of Kent Avenue West and West Davis Street will be developed to County Standards. In reality, the standards of the two jurisdictions are quite similar.

This criteria has been satisfied.

Based on the analysis and conclusions Staff has presented, which have been refuted, this response and the original application material, demonstrates the FSN, Inc. proposed URS to UL Site Specific Comprehensive Plan Amendment / Rezone has met the criteria for approval.

Please allow the applicant to reply to any further Staff analysis and/or conclusions drawn, prior to submittal of document to the Planning Commission for Public Hearing. Also, clarification is needed to determine whether the comments contained in this letter are to be included in the response to the Draft Supplemental EIS, before the Final Supplemental EIS is published.

Thank you for the opportunity to respond to the Staff Report.

Sincerely,



William M. Palmer

W.M. PALMER CONSULTANTS

cc. FSN, Inc. (Curtis & Avery)